

DECLARATION FOR PATENT APPLICATION

As the below-named inventors, we hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am an original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled SCREENING AND THERAPEUTIC METHODS FOR PROMOTING WAKEFULNESS AND SLEEP, the specification of which

 X is attached hereto as Attorney Docket No.
P-UC 4679 (U.C. Reference No. 2001-364-1)
 was filed on _____
as Application Serial No. _____
(Attorney Docket No. _____)

and was amended on (or amended through) _____.
(if applicable)

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment(s) referred to above.

I acknowledge the duty to disclose to the U.S. Patent and Trademark Office all information known to myself to be material to patentability as defined in Title 37, Code of Federal Regulations, Sec. 1.56.

Under Sec. 1.56, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and (1) It

DECLARATION FOR PATENT APPLICATION

Inventors: Civelli and Lin
Serial No.: Not Yet Assigned
Filed: Herewith
Page 2

establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or (2) It refutes, or is inconsistent with, a position the applicant takes in: (a) Opposing an argument of unpatentability relied on by the U.S. Patent and Trademark Office, or (b) Asserting an argument of patentability.

I hereby claim the benefit under Title 35, United States Code, § 120 of the prior United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application(s) in the manner provided by the first paragraph of Title 35, United States Code § 112, I acknowledge the duty to disclose to the U.S. Patent and Trademark Office all information known to myself to be material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56 that became available between the filing date of the prior application(s) listed below and the filing date of this continuation-in-part application:

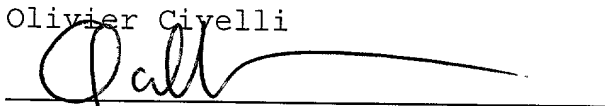
Application Serial No.	Filing Date	Status
09/560,915	April 28, 2000	Pending

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the

Inventors: Civelli and Lin
Serial No.: Not Yet Assigned
Filed: Herewith
Page 3

United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of first inventor: Olivier Civelli

Inventor's signature: 

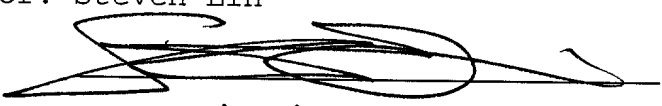
Date: 08/13/01

Residence: Irvine, California

Citizenship: Switzerland

Post Office Address: 10 Dickens Court
Irvine, California 92612

Full name of second inventor: Steven Lin

Inventor's signature: 

Date: 08/13/01

Residence: Upland, California

Citizenship: United States of America

Post Office Address: 1746 North Euclid Avenue
Upland, California 91784

RECEIVED
U.S. PATENT & TRADEMARK OFFICE
AUG 14 2001

U.C. Case No. 2001-364-1

PATENT

Our Docket: P-UC 4679

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:)
 Civelli and Lin)
)
Serial No.: Not Yet Assigned)
)
Filed: Herewith)
)
For: SCREENING AND THERAPEUTIC))
 METHODS FOR PROMOTING)
 WAKEFULNESS AND SLEEP)
_____))

Commissioner for Patents
Washington, D.C. 20231

**POWER OF ATTORNEY BY ASSIGNEE
AND EXCLUSION OF INVENTOR(S) UNDER 37 C.F.R. § 3.71**

Sir:

The undersigned assignee of the entire interest in the above-identified subject application hereby appoints CATHRYN CAMPBELL, Registration No. 31,815; DAVID A. GAY, Registration No. 39,200; CALVIN A. FAN, Registration No. 38,444; ANDREA L. GASHLER, Registration No. 41,029; JAMES J. WONG, Registration No. 34,949; DEBORAH L. CADENA, Registration No. 44,048; MELANIE K. WEBSTER, Registration No. 45,201; ASTRID R. SPAIN, Registration No. 47,956; and MARGARET M. PARR, Registration No. 48,111, all of the firm of Campbell & Flores LLP, as its attorneys to prosecute this application and to transact all business in the United States Patent and Trademark Office connected therewith, said appointment to be to the exclusion of the inventors and their attorney(s) in accordance with the provisions of 37 C.F.R. § 3.71.

Inventors: Civelli and Lin
Serial No.: Not Yet Assigned
Filed: Herewith
Page 2

An assignment of the entire interest in the above-identified subject application:

[] was recorded on _____ at
reel/frame_____/_____.

[x] is submitted herewith for recording.

Please direct all telephone calls to Cathryn Campbell at (858) 535-9001, Facsimile No. (858) 535-8949 and all correspondence relative to said application to the following address:

CATHRYN CAMPBELL
CAMPBELL & FLORES LLP
4370 La Jolla Village Drive
7TH Floor
San Diego, California 92122-1252
USPTO CUSTOMER NO. 23601

ASSIGNEE: THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

Signature: Linda S. Stevenson 8-14-01
Date

Typed Name: Linda S. Stevenson

Title: Manager, Patent Prosecution

Office of Technology Transfer
University of California
Office of the President
1111 Franklin Street, 12th Floor
Oakland, California 94607-5200

PATENT

Our Docket: P-UC 4679

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:)
 Civelli and Lin)
)
Serial No. Not Assigned Yet)
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For: SCREENING AND THERAPEUTIC))
 METHODS FOR PROMOTING)
 WAKEFULNESS AND SLEEP)
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Commissioner for Patents
Washington, D.C. 20231

Sir:

SMALL ENTITY STATEMENT

The U.S. Patent and Trademark (USPTO) permits parties that establish status as a Small Entity to pay certain reduced fees (all citations to 37 C.F.R. § 1.27 except as noted). To be entitled to Small Entity Status, a party must be at least one of the following:

(1) Individual person:

An individual person, including an inventor and persons to whom an inventor has transferred some rights in the invention. § 1.27(a)(1).

(2) Small business concern:

A business concern whose number of employees, including affiliates, does not exceed 500 persons. § 1.27(a)(2) (incorporating 13 C.F.R. § 121.802).

"Business concern" means individual proprietorship, partnership, limited liability company, corporation, joint venture, association,

Inventors: Civelli and Lin
Serial No.: Not Assigned Yet
Filed: Herewith
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trust or cooperative. If the concern is a joint venture, participation by foreign business entities may not be more than 49%. 13 C.F.R. § 121.105.

The "number of employees" is the average number of employees, including the employees of its domestic and foreign affiliates, based on numbers of employees for each of the pay periods for the preceding completed 12 calendar months.

"Employees" includes all individuals employed on a full-time, part-time, temporary, or other basis. Part-time and temporary employees are counted the same as full-time employees. If a concern has not been in business for 12 months, use the average number of employees for each of the pay periods it has been in business. 13 C.F.R. § 121.106.

Concerns are "affiliates" of each other when one concern directly or indirectly controls or has the power to control the other, or when a third party or parties controls or has the power to control both concerns. 13 C.F.R. § 121.103(a).

(3) Nonprofit organization:

A university or other institution of higher education located in any country. § 1.27(a)(3)(ii)(A).

An organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a). Also included are such organizations located in a foreign country that would qualify if it were located in this country. § 1.27(a)(3)(ii)(B), (D).

A nonprofit scientific or educational organization qualified under a nonprofit organization statute of a U.S. state. Also included are such organizations located in a foreign country that would qualify if it were located in this country. § 1.27(a)(3)(ii)(C), (D).

Inventors: Civelli and Lin
Serial No.: Not Assigned Yet
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Page 3

would qualify if it were located in this country.
§ 1.27(a)(3)(ii)(C), (D).

Please note that a license to the Government resulting from a rights determination under Executive Order 10096 does not constitute a license that would prohibit claiming Small Entity Status. Similarly, for small business concerns and nonprofit organizations, a license to a Federal agency resulting from a funding agreement with that agency under 35 U.S.C. § 202(c)(4) is not a license that would prohibit claiming Small Entity Status. § 1.27(a)(4).

I hereby assert that I am empowered to sign on behalf of the party identified below ("Party"). Persons empowered to sign include an inventor him- or herself or an authorized officer of the assignee, where the assignee has at least an undivided part interest in the application or patent. § 1.27(c)(2).

I have made a determination of the Party's entitlement to Small Entity Status, including a determination that all parties holding rights in the invention qualify for Small Entity Status. § 1.27(f).

I hereby assert that the Party has not assigned, granted, conveyed or licensed--and is under no obligation under contract or law to do so--any rights in the invention to any other party that would not qualify as a Small Entity. If the rights in the invention held by the Party are not exclusive, each party having rights in the invention is listed below:

The Regents of the University of California
Neotherapeutics, Inc.

Inventors: Civelli and Lin
Serial No.: Not Assigned Yet
Filed: Herewith
Page 4

Separate assertions of Small Entity Status should be obtained from each party having rights to the invention.

I hereby assert that the Party is entitled to be accorded Small Entity Status by the USPTO for the application or patent identified above. § 1.27(c)(1).

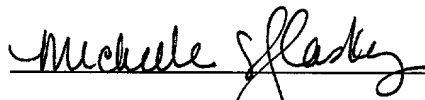
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I understand that Small Entity Status must be separately established in any related application, including continuation, divisional, continuation-in-part, continued prosecution application or reissue application. § 1.27(c)(4).

I understand that any attempt to establish Small Entity Status improperly, deceptively or fraudulently will be considered a fraud practiced on the USPTO and may result in abandonment of the application or jeopardize the validity and enforceability of any resulting patent. § 1.27(h).

8/9/01

Date



Name: Michelle S. Glasky, Ph.D.

Title: Vice President, Scientific Affairs

NeoGene Technologies, Inc.
157 Technology Drive
Irvine, California 92618

PATENT

Our Docket: P-UC 4679

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:)
 Civelli and Lin)
)
Serial No. Not Assigned Yet)
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Filed: Herewith)
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For: SCREENING AND THERAPEUTIC))
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Commissioner for Patents
Washington, D.C. 20231

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A business concern whose number of employees, including affiliates, does not exceed 500 persons. § 1.27(a)(2) (incorporating 13 C.F.R. § 121.802).

"Business concern" means individual proprietorship, partnership, limited liability company, corporation, joint venture, association,

Inventors: Civelli and Lin
Serial No.: Not Assigned Yet
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"Employees" includes all individuals employed on a full-time, part-time, temporary, or other basis. Part-time and temporary employees are counted the same as full-time employees. If a concern has not been in business for 12 months, use the average number of employees for each of the pay periods it has been in business. 13 C.F.R. § 121.106.

Concerns are "affiliates" of each other when one concern directly or indirectly controls or has the power to control the other, or when a third party or parties controls or has the power to control both concerns. 13 C.F.R. § 121.103(a).

(3) Nonprofit organization:

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An organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a). Also included are such organizations located in a foreign country that would qualify if it were located in this country. § 1.27(a)(3)(ii)(B), (D).

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Inventors: Civelli and Lin
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Please note that a license to the Government resulting from a rights determination under Executive Order 10096 does not constitute a license that would prohibit claiming Small Entity Status. Similarly, for small business concerns and nonprofit organizations, a license to a Federal agency resulting from a funding agreement with that agency under 35 U.S.C. § 202(c)(4) is not a license that would prohibit claiming Small Entity Status. § 1.27(a)(4).

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The Regents of the University of California
Neogene Technologies, Inc.

Inventors: Civelli and Lin
Serial No.: Not Assigned Yet
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Page 4

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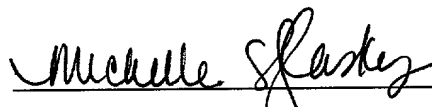
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8/10/01

Date



Name: Michelle S. Glasky, Ph.D.
Title: Vice President, Scientific Affairs

NeoTherapeutics, Inc.
157 Technology Drive
Irvine, California 92618

PATENT

Our Docket: P-UC 4679

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NeoGene Technologies, Inc.
NeoTherapeutics, Inc.

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any resulting patent. § 1.27(h).

8-14-01

Date

Linda S. Stevenson

Name: Linda S. Stevenson

Title: Manager, Patent Prosecution

Office of Technology Transfer
University of California
Office of the President
1111 Franklin Street, 12th Flr
Oakland, CA 94607-5200

U.C. Reference No.: 2001-364-1